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PART II—Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 13th September, 1966/Bhadra 22, 1888 (Saka)

THE METAL CORPORATION OF INDIA (ACQUISITION OF UNDERTAKING) ORDINANCE, 1966

No. 10 OF 1966

Promulgated by the President in the Seventeenth Year of the Republic of India.

An Ordinance to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around the Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Ordinance may be called the Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1966.

(*2*) The provisions of this Ordinance (except section 17 which shall come into force at once) shall be deemed to have come into force on the 22nd day of October, 1965.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "administrator" means an administrator appointed under section 13;

(*b*) "commencement of this Ordinance" means the 22nd day of October, 1965;

(*c*) "company" or "the Metal Corporation of India" means the Metal Corporation of India Limited, being a company as defined in the Companies Act, 1956, having its registered office at Calcutta; 1 of 1956.

(*d*) "Tribunal" means the Tribunal constituted under section 11;

(*e*) words and expressions used but not defined in this Ordinance and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE METAL CORPORATION OF INDIA

Undertaking of company to vest in Central Government.

3. On the 22nd day of October, 1965, the undertaking of the company shall, by virtue of this Ordinance, be deemed to have been transferred to, and vested in, the Central Government.

General effect of vesting under section 3.

4. (*1*) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops,

projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to the undertaking.

(2) All property included as aforesaid in the undertaking which has vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Subject to the other provisions contained in this Ordinance, all contracts and working arrangements which are subsisting immediately before the commencement of this Ordinance and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Ordinance, any proceeding or cause of action pending or existing immediately before the commencement of this Ordinance by or against the company in relation to its undertaking may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Ordinance had not been promulgated, and shall cease to be enforceable by or against the company, its surety or guarantor.

Provisions respecting officers and employees of the company.

5. (1) Every officer or other employee of the company (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole or a substantial part of the business of the company under a special agreement) in the employment of the company immediately

of 1956.

before the commencement of this Ordinance shall, in so far as such employee is employed in connection with the affairs of the undertaking of the company, become as from such commencement, an officer or other employee, as the case may be, of the Central Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held under the company if this Ordinance had not been promulgated and shall continue to do so unless and until his employment in the Central Government is terminated or until his remuneration, terms and conditions are duly altered by the Central Government:

Provided that if the alteration so made is not acceptable to any such officer or employee, his employment may be terminated by the Central Government on payment to him by the Central Government of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Central Government within thirty days next following the commencement of this Ordinance, intimated his intention of not becoming an officer or other employee of the Central Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the company shall not entitle any such officer or employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

Directors and managing agents not entitled to compensation.

6. Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act, 1956, or other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement shall be entitled to any compensation against the company or the Central Government for the loss of office or for the premature termination of any contract of management entered into by him with the company. 1 of 1956.

Duty to deliver possession of property acquired and documents relating thereto.

7. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.

(2) Any person who, on the commencement of this Ordinance, has in his possession or under his control any books, documents

or other papers relating to the company which have vested in the Central Government under this Ordinance and which belong to the company or would have so belonged if the undertaking of the company had not vested in the Central Government shall be liable to account for the said books, documents and papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Government may specify in this behalf.

(3) The Central Government may take all necessary steps for securing possession of all properties which have vested in that Government under section 3.

Duty to furnish particulars.

8. The company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Ordinance, all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force on such commencement including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the company under which, by virtue of this Ordinance, the Central Government has, or will have, or may have, liabilities except such agreements as that Government may exclude from the operation of this section, and for this purpose, the Central Government shall afford the company all reasonable facilities.

Right of Government to disclaim certain agreements.

9. (*1*) Where it appears to the Central Government that the making of any agreement under which the company has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, the Central Government may, within two years from the commencement of this Ordinance, apply to the Tribunal for relief from the agreement and the Tribunal, if satisfied after making such inquiry in the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(*2*) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

Compensation for acquisition of undertaking.

10. (*1*) The Central Government shall pay compensation to the company for the acquisition of the undertaking of the company and such compensation shall be determined in accordance with the principles specified in the Schedule and in the manner hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement;

(*b*) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the company fail to reach an agreement regarding the amount of compensation.

(2) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to the company in cash within a period of six months from the date of such determination:

Provided that if compensation is not paid within the period aforesaid, the Central Government shall pay interest on the amount of compensation at the rate of four per cent. per annum from the date of expiry of the said period.

CHAPTER III

TRIBUNAL

Constitution of Tribunal.

11. (*1*) The Central Government may for the purposes of this Ordinance constitute a Tribunal which shall consist of a single person who is, or has been, or is qualified to be, a Judge of a High Court or of the Supreme Court.

(2) The Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Ordinance.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other material objects producible as evidence;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(4) The Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive.

CHAPTER IV

MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING

Formation of Government company for management of undertaking.

12. For the efficient management and administration of the undertaking of the company vested in the Central Government by virtue of this Ordinance, that Government may form a Government company in accordance with the provisions of the Companies Act, 1956 and on the formation of such company, the undertaking, together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 4 and such other properties, assets, liabilities and obligations as may, after the commencement of this Ordinance, be acquired or incurred for the purposes of the undertaking, shall, by virtue of this Ordinance, stand transferred to, and vest in, that Government company. 1 of 1956.

Appointment of administrators.

13. (1) Pending the formation of the Government company referred to in section 12, the Central Government may appoint one, or more than one, administrator for the efficient management and administration of the undertaking.

(2) Such administrator or administrators shall, in the management and administration of the undertaking, act in accordance with such directions, if any, as may be issued by the Central Government in this behalf.

CHAPTER V

MISCELLANEOUS

Penalties.

14. (*1*) Any person who—

(*a*) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government; or

(*b*) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Ordinance; or

(*c*) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by sub-section (*2*) of section 7 any document which may be in his possession, custody or control; or

(*d*) wilfully fails to furnish an inventory as required under section 8; or

(*e*) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (*a*) or clause (*b*) or clause (*c*) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished:

Provided further that nothing contained in this section or any other provision of this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of promulgation of this Ordinance.

(*2*) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Protection of action taken under this Ordinance.

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or an administrator or an officer or other employee serving in connection with the affairs of the undertaking of the company for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

16. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

(*2*) Every rule made by the Central Government under this Ordinance shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Certain actions, etc., deemed to be taken under this Ordinance.

17. Notwithstanding any judgment, decree or order of any court,—

(*a*) the Government company called the Hindustan Zinc Limited, having its registered office at Udaipur, formed under the Companies Act, 1956, in pursuance of section 12 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1965, which has been declared to be unconstitutional and void, (hereinafter referred to as the said Act), shall be deemed to be and to have been formed under the Companies Act, 1956, in pursuance of section 12 of this Ordinance; and the undertaking of the Metal Corporation of India together with all properties, assets, liabilities and obligations referred to in section 12 of this Ordinance shall be deemed to have been transferred to, and vested in, the said Government company on the date of its formation;

1 of 1956.
44 of 1965.

(*b*) any rule, order or appointment purporting to have been made, any decision or direction purporting to have been given, any action or proceeding purporting to have been taken, or anything purporting to have been done under any provision of the said Act shall be deemed to be and to have been a rule, order or appointment made, decision or direction given, action or proceeding taken, or thing done under the corresponding provision of this Ordinance.

THE SCHEDULE

(*See* section 10)

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING

Paragraph I.—The compensation to be paid by the Central Government to the company in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum total of the value of the properties and assets of the company as on the commencement of this Ordinance calculated in accordance with the provisions of paragraph II *less* the sum total of the liabilities and obligations of the company as on such commencement calculated in accordance with the provisions of paragraph III, together with interest on such amount calculated in accordance with the provisions of paragraph IV.

Paragraph II.—(*a*) The market value at the commencement of this Ordinance—

(*i*) of any land or buildings;

(*ii*) of any plant, machinery or other equipment;

(*iii*) of any shares, securities or other investments held by the company;

(*b*) the total amount of the premiums paid up to the commencement of this Ordinance by the company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(*c*) the amount of debts due at the commencement of this Ordinance to the company, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

(*d*) the amount of cash held at the commencement of this Ordinance by the company, whether in deposit with a bank or otherwise;

(*e*) the market value at the commencement of this Ordinance of all tangible assets and properties other than those falling within any of the preceding clauses.

Paragraph III.—The total amount of liabilities and obligations incurred by the company in connection with the formation, management and administration of the undertaking and subsisting immediately before the commencement of this Ordinance.

Paragraph IV.—The interest referred to in paragraph I shall be on the amount mentioned in the said paragraph for the period commencing on the 22nd day of October, 1965, and ending with the date of promulgation of this Ordinance, calculated at the average bank rate during the said period.

S. RADHAKRISHNAN,
President.

S. P. SEN-VARMA,
Secy. to the Govt. of India.

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